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1 Friday, 14 June, 1946

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3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 1330.

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11 Appearances:

12 For the Tribunal, same as before.

13 For the Prosecution Section, same as before.

14 For the Defense Section, same as before with
15 the addition of: OHTA, Kinjiro, Counsel for Accused
16 DOHIHARA, Kenji; MR. WILLIAM J. MCCORMACK and
17 OKAMOTO, Toshio, Counsel for Accused MINAMI, Jiro;
18 MR. ROGER F. COLE, Counsel for Accused MUTO, Akira;
19 MR. JOHN G. BRANNON, Counsel for Accused NAGANO, Osami;
20 SHIMANOUCI, Ryuki, Counsel for Accused OSHIMA, Hiroshi;
21 NARITOMI, Nobuo, Counsel for Accused SHIRATORI, Toshio;
22 and MR. MICHAEL LEVIN, Counsel for Accused SUZUKI,
23 Teiichi.

24 (English to Japanese and Japanese
25 to English interpretation was made by
SHIMANOUCI, Toshiro and MORI, Tomio,
Larry Miyamoto acting as Monitor.)

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Brigadier Nolan.

4 DR. UZAWA: Mr. President, with the Court's
5 permission I should like to introduce to this Tribunal
6 Mr. Hyeichiro KUSANO, counsel for the defendant SATO,
7 Kenryo.

8 BRIGADIER NOLAN: May it please the Tribunal,
9 when the Tribunal adjourned yesterday afternoon I was
10 making some reference to the wartime changes from
11 government administration, and, in particular, I was
12 referring at that time to the changes which have been
13 brought about by reason of the creation of the Ministry
14 of Munitions. I was going on to say that the Cabinet
15 Planning Board and the Ministry of Commerce and In-
16 dustry, which I have previously mentioned, were abol-
17 ished, and their duties with respect to manufacturing
18 and armament production were transferred to the new
19 Munitions Ministry.

20 The new Ministry likewise was responsible
21 for the functions formerly carried out by the Control
22 Associations.

23 In short, the purpose of the Munitions
24 Ministry was to give military leaders of the Govern-
25 ment direct control over all activities of industry

1 in order that there might be an increase in the pro-
2 duction of war materials.

3 The New Transportation and Communications
4 Ministry was formed, and it was stated that the in-
5 tention of the Government in creating the new Ministry
6 was to co-ordinate the whole transport system by sea
7 and by land in Japan, Manchukuo and occupied China
8 under a single authority. All types of communications,
9 including mail, telephone and wireless services, were
10 placed under the control of the new Ministry.

11 There was also created the New Ministry of
12 Agriculture and Commerce. It was the intention of the
13 Government to delegate all remaining functions of the
14 Ministry of Commerce and Industry, after all other
15 activities had been taken over by the Ministry of
16 Munitions, to the newly created Ministry of Agriculture
17 and Commerce. In addition, the new Ministry obtained
18 a wide jurisdiction over agricultural activities,
19 special emphasis being placed upon the supply of food
20 and consumer's goods.

21 The Supreme Council for the Direction of War
22 was created in August 1944. Its purpose as announced
23 by the Japanese Government was to formulate a funda-
24 mental policy for direction of the war.

25 Mention has already been made of the Board

1 of Fleet Admirals and Field Marshalls and the Supreme
2 War Council both of which were advisory bodies to the
3 Emperor.

4 Other agencies which should be mentioned in
5 this connection are the Army and Navy General Staff
6 who are charged with the duty of advancing a pro-
7 gramme for national defence and military operations.
8 In matters of national defence their decisions were
9 reported directly to the Emperor during peacetime,
10 and in time of war they are reported to Imperial
11 Headquarters. When the problems were of sufficient
12 importance they were brought before the Board of
13 Fleet Admirals and Field Marshalls or to the Su-
14 preme War Council or to both. After Imperial sanc-
15 tion had been given, the matters were referred to
16 the War Minister or to the Navy Minister for exe-
17 cution. However, on any matters pertaining to the
18 actual operation of the armed forces on the fighting
19 fronts, the General Staffs assume complete responsi-
20 bility.

21 Following the China Incident the military
22 brought about the creation of a Liaison Committee
23 to establish a basic policy for directing the war
24 by co-ordinating the civilian and military branches
25 of the Government. Its membership consisted of the

1 War Minister, Navy Minister, Chief of the Army General
2 Staff, Chief of the Navy General Staff, and, as a
3 Committee, it stood between the Imperial Headquarters
4 and the Government.

5 For almost seven years the members of the
6 Liaison Committee accomplished their tasks fairly
7 well but when the Japanese Army and Navy began to
8 suffer reverses a still closer tie was found to be
9 necessary.

10 In February of 1944, steps were taken to
11 combine under a single head the Army and Navy Ministers
12 and the Chiefs of the Army and Navy Staffs. The pur-
13 pose of this move was to strengthen and coordinate
14 the existing functions of the Liaison Committee. Be-
15 cause of strong opposition within high governmental
16 and military circles to this innovation and for
17 other reasons, the Government fell.

18 The succeeding Government separated the
19 military from the administrative and set up this new
20 body called "The Supreme Council for the Direction
21 of War". As a result of this reorganization, the
22 Liaison Committee was abandoned largely because it
23 did not have enough power and was unable to iron out
24 the differences of opinion in high governmental
25 circles, particularly upon the question of industri-

1 al production.

2 The new Supreme Council was an effort to
3 unify the supreme command and national affairs after
4 the basic administrative and military policies had
5 been formulated. Its task was one of integration
6 with particular reference to military operations
7 and production.

8 The new Supreme Council was responsible for
9 decisions relating to the basic plans for the execu-
10 tion of the war and the all-important aircraft and
11 other war production. The basic policies decided by
12 the Council were carried out by the Imperial Head-
13 quarters and the Government. The relations between
14 the new Council and the Government were not based
15 on legislating but rather on political considerations.
16 In other words the Cabinet was not bound legally by
17 the decisions of the new Council, but from a politi-
18 cal standpoint, as a matter of course, it was governed
19 by the decisions of the Council.

20 During the war there was, of course, as in
21 other countries, a great deal of wartime legislation.
22 It will be sufficient, I think, to mention only a
23 few of the more important enactments. There was the
24 National Mobilization Law, originally promulgated in
25 1938, and revised in 1941. It is the foundation of

1 almost all wartime laws. It is to be found in Exhibit
2 84 in the case, and Exhibit 99 in the case is a list of
3 Imperial Ordinances enacted under the provisions of
4 the National Mobilization Law.

5 Then there was the New Peace Preservation
6 Law, which is to be found in Exhibit 98 in the case.
7 This law, enacted in 1941, provides heavy penalties
8 for persons who organize associations the object of
9 which is to change the national policy, or who insti-
10 gate sedition.

11 Mr. Wakatsuki, the Home Minister, said in
12 introducing the bill,

13 "It aims at prohibiting such illegal societies
14 as are subversive of the fundamental principles under-
15 lying the national organization."

16 It is not my purpose to say more than a
17 word about the Government of the Japanese occupied
18 territories.

19 When the Greater East Asia Ministry was
20 created in 1942, it absorbed the Bureau of the former
21 Overseas Ministry which had originally administered
22 the territories of the Mandated Islands (i.e. the
23 Carolines, Marshalls and the Marianas), the Kwantung
24 Leased Territory and the occupied areas in China and
25 the South Pacific.

1 In Manchukuo, although the Manchukuoan
2 Government bore the outward signs of an independent
3 organization, it will be shown in evidence in this
4 case, it was in practice controlled by the Japanese
5 occupying forces.

6 Its constitution and government organi-
7 zation resembled that of Japan in almost every re-
8 spect. Its Legislative Council did not meet once
9 in its supposed existence, and all legislation has
10 been enacted by a State Council headed by the Premier,
11 who was appointed by the Emperor. It will also be
12 shown that the actual ruler of Manchukuo was the
13 Commander-in-Chief of the Japanese Kwantung Army,
14 who also served as Japanese Ambassador to Manchukuo.

15 In occupied China the Governments are three
16 in number: The National Government of China at Nan-
17 king; the Mongolian Government; and there were Special
18 Administrative areas along the south coast of China.

19 The National Government of China at Nanking,
20 it will be shown in evidence, was a puppet state.
21 This Government claimed control over all of China,
22 but its actual existence depended upon the support
23 of the Japanese occupying armies. Structurally, the
24 Government was complete, having Assemblies, Ministries,
25 Provincial Districts, Governors and Magistrates.

1 Opposed to the Nanking regime stood the
2 Government of Republican China, led by Generalissimo
3 Chiang Kai-Shek from his capital at Chungking. In
4 the north west, the Chinese Communists, while stead-
5 fast in their opposition to the expansion of the
6 Japanese, have never worked in harmony with the Chung-
7 king regime.

8 It will be shown that the Federated Mon-
9 golian Autonomous Government was actually under the
10 control of the Japanese Kwantung Army.

11 In the course of this explanation I have had
12 occasion to mention the Imperial Rule Assistance
13 Association.

14 In Japan, political parties were largely
15 built around the personality and influence of indi-
16 vidual leaders rather than around meaningful principles
17 and party platforms.

18 Two of the most prominent political parties,
19 as will be shown, were probably successful because
20 each was backed by the economic interests of a power-
21 ful Japanese family corporation.

22 In October 1940, Prince Konoye demanded as a
23 condition of his acceptance of office the voluntary
24 dissolution of all political parties.

25 A National political agency, the Imperial

1 Rule Assistance Association, was organized and replaced
2 or absorbed all political parties and assumed their
3 functions.

4 It is a government-controlled propaganda agency
5 andracted in economic as well as political matters on
6 both national and local levels.
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1 The Prime Minister was President of the
2 Imperial Rule Assistance Association, but much of
3 the actual direction is in the hands of the Vice-
4 President -- usually a cabinet minister without
5 portfolio. The Premier appoints all high-ranking
6 officials.

7 This organization was only a qualified
8 success. In the election of April, 1942, it won
9 only eighty-one percent of the seats in the House
10 of Representatives, and in May, 1942, an additional
11 body -- the Imperial Rule Assistance Political
12 Society -- was set up to function in the political
13 sphere and to secure a more complete control over
14 elections.

15 In conclusion, may I say this, Mr. Pres-
16 ident and Members, it is not the purpose of this
17 explanation to attempt to point to defects in the
18 Japanese system of government for the purpose of
19 demonstrating that it has proved to be unsuited
20 to the development of peaceful practices and
21 policies. But it is submitted that this phase of
22 the subject may be summed up by stating that it
23 is apparent that there is in Japan an absence of
24 an effective system of responsibility of Govern-
25 ment to the people.

1 The Japanese Constitution was drawn up
2 with the dual purpose, on the one hand, of stilling
3 popular clamor for representative institutions and
4 on the other, perpetuating and fortifying the cen-
5 tralized and autocratic governmental structure
6 which its framers, the Meiji leaders believed
7 necessary for the continued existence and develop-
8 ment of Japan in the modern world. Consistent
9 with this latter purpose, power was retained in the
10 hands of a small group of personal advisers around
11 the Throne, and the elected representatives of the
12 people were given only limited supervisory powers
13 over legislation.

14 When a Cabinet falls, the new Prime Min-
15 ister, who selects his own Cabinet, is appointed
16 not automatically as the leader of the majority
17 party in the House of Representatives, but by the
18 Emperor after taking advice. The nature and com-
19 position of a new government consequently is de-
20 termined by this advice, rather than by the ma-
21 jority view in the lower house.

22 It has been pointed out that the power
23 of the Diet to control government expenditures is
24 greatly restricted by the provisions in the Con-
25 stitution that if a budget is rejected by the Diet,

1 that of the preceding year automatically goes into
2 effect, and also, by the magnitude of the excepted
3 items in the budget itself. If to these items is
4 added the continuing appropriations, a small amount
5 of the expenditure is left for the consideration of
6 the Diet.

7 Although the passing of general laws per-
8 taining to the internal affairs of the nation are
9 within its province, in practice, most bills are in-
10 troduced by members of the Cabinet, in whose selec-
11 tion the Diet has no part.

12 The powers to declare war, make peace and
13 conclude treaties are Imperial prerogatives over
14 which the Diet can exert only an indirect influence
15 because of its inability to control the Cabinet and
16 the Privy Council which, together with other advisers
17 close to the Throne, advise the Emperor upon these
18 matters.

19 The Diet has no power over dynastic affairs,
20 it cannot initiate amendments to the Constitution,
21 it cannot convene of its own accord, and it may be
22 prorogued for a period up to fifteen days any number
23 of times during a **session** by the Emperor on the
24 advice of the Prime Minister.

25 It has also become apparent that inasmuch

1 as approximately one-half of the House of Peers
2 is composed of the nobility, one fourth of persons
3 elected by and from the highest tax-payers and one
4 fourth of Imperial appointees, its equal legis-
5 lative power with the popularly elected lower
6 house gives representatives of the propertied
7 and conservative classes in Japan an undue in-
8 fluence on legislation.

9 The Privy Council, composed of a pres-
10 ident, a vice-president, and twenty-four councillors
11 appointed for life and the members of the Cabinet
12 ex officio, serves as the supreme advisory body
13 to the Emperor. The Ordinance defining its power,
14 promulgated in 1890, stipulated that, generally
15 speaking, its advice was to be solicited by the
16 Emperor only on constitutional questions, inter-
17 national treaties and agreements, and prior to
18 the issuance of emergency Imperial Ordinances.

19 Gradually, however, the Council has ex-
20 tended its activities and increased its power un-
21 til in recent decades it has come to resemble a
22 "Third Chamber" with broad supervisory powers
23 over the executive in both foreign and domestic
24 matters. It has frequently opposed the Cabinet
25 on policy questions and on several occasions has

1 forced the downfall of Cabinets possessing the confidence
2 of the Diet. Owing no political responsibility to the
3 Diet or to the people for its activities, and yet
4 exerting important influences over the entire affairs
5 of the State, the Privy Council has proved an important
6 barrier to the development of a sound parliamentary
7 system.

8 The ability of the military to affect govern-
9 ment policy both within and without the area of their
10 assigned responsibilities and, in their proper sphere,
11 to exercise supremacy over the civil power has created
12 a divided responsibility between the military and civil
13 authorities in the Japanese Government. The effect
14 of this division on the determination of
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1 policy will be made the subject of a full exposition
2 later in the case.

3 Mr. President, it has been my task to paint
4 with a broad brush an explanatory picture of the ex-
5 isting governmental structure of Japan resting as it
6 does upon the Constitution itself and upon the basic
7 laws and ordinances supplementary thereto.

8 The Tribunal will now be informed more
9 specifically by my colleague, Mr. Horwitz, as to the
10 areas of division, gap and overlap in the Japanese
11 constitutional system and as to the functions of these
12 bodies and offices which operating privately and
13 "unseen," fill the gaps and carry out the required
14 liason and whose competence to advise the Throne
15 rests primarily outside the constitution and upon
16 customs and traditions.

17 At the conclusion of the second part, we
18 will offer in evidence against the defendants, the
19 basic laws and ordinances which have already been
20 marked as Exhibits and upon which our explanation
21 has been based. Thank you.

22 MR. HORWITZ: Mr. President and Members of
23 the International Military Tribunal for the Far East,
24 in the discussion just completed there has been de-
25 picted for the Tribunal, in some detail, the chief

1 organs and the salient features of the Japanese
2 governmental system.

3 To stop the analysis at this point would be
4 to leave the picture half painted and given an incomplete
5 view of the incidence of responsibility for govern-
6 mental function and action in the Japanese state.
7 Particularly we would be likely to fail to grasp the
8 basic responsibility of the accused, or of the great
9 majority of them, for the crimes with which they stand
10 charged in the indictment. In order to fix responsi-
11 bility for governmental function and action in the
12 Japanese state and in order to fully comprehend the
13 responsibility of the defendants for the crimes charged
14 against them, it is not sufficient to outline the
15 structure of the various constitutional organs and to
16 analyze their respective functions.

17 The most cursory examination of the Japanese
18 Constitution and the documents with respect to the
19 several governmental organs established thereunder,
20 as well as the analysis already made, discloses that
21 there exists in the Japanese governmental setup
22 (1) areas of divided jurisdiction, (2) areas of
23 jurisdiction which have not been assigned to
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1 any constitutional organ whatsoever and third, areas
2 of conflicting and overlapping jurisdiction. To meet
3 the needs occasioned by these problems, it became
4 necessary for the Japanese government to make use of
5 certain extra-constitutional and extra legal bodies
6 to fill the gaps and to coordinate the activities of
7 the several organs having jurisdiction over the whole
8 or part of the same sphere of governmental activity.
9 It is, therefore, necessary in order to fix govern-
10 mental responsibility and to obtain some idea of the
11 governmental mechanism in operation, to ascertain these
12 areas of division, gap and conflict, and to examine
13 the extra-constitutional bodies created to meet the
14 problems engendered thereby.

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1 Turning, first, to the Areas of Divided
2 Responsibility, Conflicts of Jurisdiction, and
3 Gaps in Jurisdiction and Mechanism, for the purpose
4 of properly clarifying the issues involved, this
5 problem will be considered separately with respect
6 to two of the main functions of government, namely
7 the legislative and the executive.

8 Taking, first, the legislative conflicts
9 in the Japanese system, the allocation of legis-
10 lative powers in the Japanese government is to be
11 found in Articles IV to X inclusive, and Articles
12 XXXVII and LXXIV of the Constitution, Exhibit 68
13 in the case which provide as follows:

14 Article IV. The Emperor is the head of
15 the Empire, combining in himself the rights of
16 sovereignty, and exercises them, according to the
17 provisions of the present Constitution.

18 Article V. The Emperor exercises the
19 legislative power with the consent of the Imperial
20 Diet.

21 Article VI. The Emperor gives sanction
22 to laws and orders them to be promulgated and
23 executed.

24 Article VII. The Emperor convokes the
25 Imperial Diet, opens, closes and prorogues it,

1 and dissolves the House of Representatives.

2 Article VIII. The Emperor, in consequence
3 of an urgent necessity to maintain public safety,
4 or to avert public calamities, issues, when the
5 Imperial Diet is not sitting, Imperial Ordinances
6 in the place of law.

7 Such Imperial Ordinances are to be laid
8 before the Imperial Diet at its next session,
9 and when the Diet does not approve the said
10 Ordinances, the Government shall declare them to
11 be invalid for the future.

12 Article IX. The Emperor issues or causes
13 to be issued, the Ordinances necessary for the
14 carrying out of the laws, or for the maintenance
15 of the public peace and order, and for the pro-
16 motion of the welfare of the subjects. But no
17 Ordinance shall in any way alter any of the
18 existing laws.

19 Article X. The Emperor determines the
20 organization of the different branches of the
21 administration, and salaries of all civil and
22 military officers, and appoints and dismisses
23 the same. Exceptions especially provided for
24 in the present Constitution or other laws shall
25 be in accordance with the respective provisions.

1 Article XXXVII. Every law requires the
2 consent of the Imperial Diet.

3 Article LXXIV. No modification of the
4 Imperial House Law shall be required to be submitted
5 to the deliberation of the Imperial Diet.

6 From these provisions of the Constitution,
7 the following general ideas may be deduced with
8 respect to legislative responsibility and division
9 of function.

10 First, the legislative power is vested in
11 the Emperor subject to the assent of the Diet with
12 respect to the enactment of laws.

13 Second, when the Diet is not in session,
14 the Emperor, or rather his ministers as his advisors,
15 may exercise the legislative power by Imperial
16 Ordinance. If these Ordinances are later disapproved
17 of by the Diet, they are invalid for the future.
18 However, the Ordinances and all actions taken there-
19 under are completely valid for the period between
20 their promulgation and the date of disapproval by
21 the Diet. Such legislation may and does alter
22 existing law.

23 Third, the Diet has no relation whatsoever
24 to the Imperial Household Law. By the Constitution,
25 Imperial Household affairs are placed beyond the

1 reach of the Diet, and a separation is drawn between the
2 affairs of the Court and those of the State. However,
3 within the prerogatives over the Imperial Household
4 are included matters which are not strictly internal
5 matters of the Court but of vital concern to the
6 people and to the state as well, such as those re-
7 lating to the succession to the Throne, the insti-
8 tution of a regency and to the Imperial Household Law.

9 With respect to these matters which belong
10 to the general affairs of state, the cabinet may be
11 consulted, but the Diet has no means of questioning
12 responsibility for the cabinet's advice. The Ministers
13 of State have always refused to answer interpellations
14 in the Diet on Imperial Household affairs, maintaining
15 they have no responsibility to the Diet for such
16 matters.

17 Fourth, even as to matters within the
18 competence of the Diet, the exercise of its functions
19 are limited by the controls set up for its regulation
20 wherein the power to open, close and prorogue both
21 houses of the Diet, or to dissolve the House of
22 Representatives is vested in the Emperor or in other
23 organs delegated by him.

24 Fifth, as distinguished from the Imperial
25 Ordinance power which is reserved to the Imperial

1 Throne by Articles IX and X of the Constitution,
2 the Diet is excluded from participation in many
3 matters which are strictly within the legislative
4 sphere in all modern governmental setups. Thus
5 the Imperial Ministers as agents for the Emperor
6 alone may establish the entire administrative
7 hierarchy, and it is significant to note that the
8 documents which are already produced in evidence
9 establishing the various organs and departments
10 of government are without exception Imperial
11 Ordinances and Rescripts and not enactments of
12 the Diet. With respect to the Ordinance power
13 reserved to the Emperor under Article IX, with the
14 exception of "ordinances necessary for the carrying
15 out of the laws", which may be termed administrative,
16 the remaining power, namely that of issuing ordin-
17 ances for the maintenance of the public peace and
18 order and for the promotion of the welfare of the
19 subjects, involves matters which are purely legis-
20 lative in content and are customarily left to the
21 legislature for enactment into law. However, under
22 the Japanese system they are retained in the hands
23 of the Emperor and exercised by the Ministers.

24 Sixth, in addition to the limitations
25 mentioned before the Diet is precluded from any

1 participation with respect to certain other matters
2 customarily considered part of the legislative
3 function. The organization of the army and navy
4 is determined by the Emperor (Article XII of the
5 Constitution). The Emperor declares war, makes
6 peace and concludes treaties (Article XIII). In
7 these functions neither house of the Diet plays any
8 direct role.

9 While the legislative power in all its
10 ramifications is vested in the Emperor, he, or
11 rather his Ministers, exercises this power not
12 directly but through delegation to other organs of
13 the government. It is therefore necessary to examine
14 the legislative power of these organs with respect
15 to each other and to the Diet.

16 I turn now to the Area of Conflict between
17 the Cabinet and the Diet.

18 Before we can adequately assess the legis-
19 lative function of the Diet, we must first look at
20 the position of the Cabinet in the Japanese Consti-
21 tutional system.

22 Although the Cabinet is the chief execu-
23 tive organ of the government, there is no specific
24 reference to the Cabinet in the Constitution. If
25 included at all, it is only by implication. The only

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2 customarily considered part of the legislative
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20 the position of the Cabinet in the Japanese Consti-
21 tutional system.

22 Although the Cabinet is the chief execu-
23 tive organ of the government, there is no specific
24 reference to the Cabinet in the Constitution. If
25 included at all, it is only by implication. The only

1 Article which may be said to have application to that
2 body is Article LV which provides:

3 "The respective Ministers of State
4 shall give their advice to the Emperor,
5 and be responsible for it. All laws,
6 Imperial Ordinances and Imperial Re-
7 scripts of whatever kind, that relate
8 to the affairs of the State, require the
9 counter-signature of a Minister of State."

10 Yet notwithstanding these facts, the Cabinet
11 exists as a collective body composed of departmental
12 ministers under the presidency of a minister president
13 for the purpose of initiating, directing and carrying
14 out the general policies of the government and to serve
15 as a channel through which the Imperial prerogative
16 over general affairs is placed in operation. This
17 body owes its origin to the Imperial Rescript on
18 Functions of the Cabinet of December 22, 1885, which
19 is Exhibit 71 in the case, which established a
20 cabinet system, and its composition powers, duties
21 and functions are set forth in that instrument and
22 in the Imperial Ordinance Relating to General Rules
23 Concerning the Organization of the Ministries of 1893,
24 which is Exhibit 73 in the case, and not in the
25 Constitution itself. Article I of the Imperial

1 Rescript on the Functions of the Cabinet provides:
2 "The Cabinet is composed of the various Ministers
3 of State."

4 According to Article LV of the Constitution,
5 the Cabinet Ministers, or Ministers of State, are
6 responsible for the advice which they give to the
7 Emperor. The Constitution, however, as Prince ITO
8 in his Commentaries explains, is silent about the
9 person or persons to whom they are responsible and
10 for what they are responsible, and the nature of
11 the responsibility.

12 As to the person to whom there is respon-
13 sibility, there is unanimity among the constitutional
14 jurists that in legal principle, the ministers of
15 state are primarily directly responsible to the
16 Emperor and that no other organ of the State may
17 question their legal responsibility or remove them
18 from office.

19 Although the responsibility of the Cabinet
20 is thus agreed to be due primarily to the Emperor,
21 the Diet does have certain legal powers of control
22 over the Cabinet. By means of parliamentary inter-
23 pellations or asking questions, the passage of
24 resolutions, the presentation of resolutions to the
25 Throne (Article XLIX), the voting approval of emer-

1 gency Imperial Ordinances (Article VIII) and by its
2 budgetary power (Article LXIV and LXV) the Diet is
3 able to have some measure of control over the Cabinet.

4 On occasion, the Cabinet has adopted the
5 parliamentary device of resigning or dissolving the
6 House and having the matter decided by the elect-
7 orate upon a resolution of lack of confidence being
8 voted in the Lower House.

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1 As to matters for which the Cabinet is
2 responsible:

3 Since, under the Japanese Constitution,
4 the Emperor is inviolable and has no responsibility
5 for his acts, and since he exercises his prerogatives
6 only upon the responsible advice of organs of the
7 State, and since it is only upon the advice of a
8 minister of state that the Imperial prerogative over
9 general affairs of state may be exercised, the scope
10 of ministerial responsibility is as broad as the
11 Imperial prerogative over state affairs. This
12 primary responsibility to the Emperor is inescapable
13 as to matters of state, even though the Emperor has
14 sought out the advice of other constitutional and
15 extra-constitutional bodies.

16 While there has been some dispute as to
17 whether cabinet responsibility is an individual
18 responsibility or a collective one, the majority of
19 experts have tended to regard the responsibility as
20 that of the individual minister of state. In practice,
21 the Cabinet has actually assumed collective responsi-
22 bility under the leadership of the Premier.

23 The Cabinet as the chief administrative
24 organ with respect to general affairs of state has
25 wide legislative powers, a portion of which is exer-

1 cised in conjunction with other governmental bodies.
2 Under the provisions of Article IV of the Constitution,
3 the Cabinet exercises the legislative powers of the
4 Emperor under Articles V, VII, VIII, IX, and X of
5 that instrument.

6 Taking up first, the legislative powers
7 exercised by the Cabinet together with the Diet.

8 Article XXXVIII of the Constitution provides
9 that "Both houses shall vote upon projects of law
10 submitted to it by the Government, and may respect-
11 ively initiate projects of law." The Imperial
12 Rescript on the Functions of the Cabinet of December
13 22, 1885, contains the following provisions with
14 respect to the legislative function of the Cabinet.

15 "Article IV. All laws and all Imperial
16 Ordinances affecting the administration as a
17 whole, shall bear the countersignature of the
18 Minister President as well as that of the
19 Minister from whose Department they directly
20 emanate. All Imperial Ordinances affecting
21 a Special Department only shall be counter-
22 signed by the Minister of the Department alone."

23 "Article V. The following matters shall
24 be submitted for deliberation by the Cabinet.

25 1. Draft of laws, financial estimates,

1 and settled accounts.

2 2. Treaties with foreign countries and
3 all national questions of importance.

4 3. Ordinances relating to Administration,
5 or to the carrying out of regulations
6 and laws."

7 It is clear from an examination of the
8 foregoing provisions that the Cabinet exercises the
9 legislative power conferred upon the Diet together
10 with the Diet in one of the following manners:

11 1. Through initiation of legislation.

12 Since the elimination of political parties, initiation
13 by the Cabinet has been the sole method used for the
14 introduction of legislation.

15 2. Through the exercise of the power to
16 approve or disapprove legislation introduced by a
17 member of the Diet.

18 In addition the Cabinet exercises control
19 over the legislative power of the Diet by the pro-
20 visions of the Constitution wherein the Diet is
21 denied the power to convene of its own accord and
22 wherein the Diet may be prorogued, or in the case of
23 the House of Representatives, dissolved by the Cabinet.

24 3. The Cabinet, however, exercises power
25 either by itself or in conjunction with govern-

1 mental organs other than the Diet.

2 When the Diet is not in session, the
3 Cabinet exercises the legislative power through the
4 issuance of Imperial Ordinances as provided in Article
5 VIII of the Constitution. This power is an extensive
6 one and is shared in part with the Privy Council. As
7 the Diet session ordinarily does not exceed three
8 months in length, as provided in the Constitution,
9 Article XLII, the Cabinet exercises the legislative
10 power without Diet concurrence for the greater part
11 of the year. Although the Diet has the power of dis-
12 approval of Imperial Ordinances, the power has been
13 rarely exercised, and even if exercised can be
14 obviated by the reissuances of the disapproved ordinance
15 immediately after the adjournment of the Diet.

16 In addition the Cabinet has legislative
17 powers over and above those of the Diet in the treaty-
18 making power, which is in no way shared with the Diet,
19 and through the general ordinance power.

20 One other phase of power which is shared by
21 Cabinet and the Diet is the financial power.

22 The Constitution contains the following
23 provisions with respect to governmental finances:

24 "Article LXII. The imposition of a new tax
25 or the modification of the rates (of an existing

1 one) shall be determined by law.

2 However, all such administrative fees or
3 other revenue having the nature of compensation shall
4 not fall within the category of the above clause.

5 The raising of national loans and the
6 contracting of other liabilities to the charge of
7 the National Treasury, except those that are pro-
8 vided in the Budget, shall require the consent of
9 the Imperial Diet."

10 "Article LXIV: The expenditure and
11 revenue of the State require the consent of the
12 Imperial Diet by means of an annual Budget.

13 Any and all expenditures overpassing the
14 appropriations set forth in the Titles and Para-
15 graphs of the Budget, or that are not provided for
16 in the Budget, shall subsequently require the
17 approbation of the Imperial Diet."

18 "Article LXV. The Budget shall be first
19 laid before the House of Representatives."

20 "Article LXVI. The expenditures of the
21 Imperial House shall be defrayed every year out of
22 the National Treasury, according to the present
23 fixed amount for the same, and shall not require
24 the consent thereto of the Imperial Diet, except in
25 case of an increase thereof is found necessary."

1 "Article LXVII. Those already fixed
2 expenditures based by the Constitution upon the
3 powers appertaining to the Emperor, and such
4 expenditures as may have arisen by the effect of
5 law, or that appertain to the legal obligations
6 of the government, shall be neither rejected nor
7 reduced by the Imperial Diet, without the con-
8 currence of the government."

9 "Article LXVIII. In order to meet
10 special requirements, the Government may ask the
11 consent of the Imperial Diet to a certain amount
12 as a Continuing Expenditure Fund, for a previously
13 fixed number of years."

14 "Article LXIX. In order to supply defi-
15 ciencies, which are unavoidable, in the Budget,
16 and to meet requirements unprovided for in the
17 same, a Reserve Fund shall be provided in the Budget."

18 "Article LXX. When the Imperial Diet can-
19 not be convoked owing to the external or internal
20 condition of the country, in case of urgent need
21 for the maintenance of public safety, the govern-
22 ment make take all necessary financial measures
23 by means of an Imperial Ordinance."

24 "In the case mentioned in the preceding
25 clause, the matter shall be submitted to the Imperial

1 Diet at its next session, and its approbation shall
2 be obtained thereto."

3 "Article LXXI. When the Imperial Diet
4 has not voted on the Budget, or when the Budget
5 has not been brought into actual existence, the
6 Government shall carry out the Budget of the
7 preceding year."

8 "Article LXXII. The final account of the
9 expenditures and revenue of the State shall be
10 verified and confirmed by the Board of Audit,
11 and it shall be submitted by the Government, to
12 the Imperial Diet, together with the report of
13 verification of said Board."
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1 An examination of the foregoing provisions
2 discloses that while generally the Diet has legis-
3 lative power with respect to finances, that of the
4 Cabinet is much broader. The following important
5 conclusions can be drawn:

6 First, the Diet, except in the case of
7 an increase, cannot touch the funds allotted to the
8 Imperial household.

9 Second, the Cabinet can prevent the Diet
10 from reducing or rejecting any of the following
11 items:

12 (i) Expenditures based by the Constitution
13 upon the powers appertaining to the Emperor.

14 (ii) Expenditures which have arisen by
15 the effect of law such as treaty obligations.

16 (iii) Expenditures that appertain to
17 the legal obligations of the Government.

18 Third, the Cabinet has wide financial
19 powers not subject to prohibitory control of the
20 Diet in the following instances:

21 (i) The use of a Continuing Expenditure
22 Fund which may be set up by a friendly Diet for use
23 in adverse times.

24 (ii) A reserve fund which the Diet must
25

1 mandatorily provide.

2 (iii) The right to make expenditures in
3 excess of the Budget subject to the subsequent appro-
4 bation of the Diet, which is of little value after
5 an expenditure has been made.

6 (iv) The right to issue an Imperial ordi-
7 nance for all financial measures in the event the
8 Diet is not in session and cannot be convoked sub-
9 ject only to subsequent approval by the Diet which
10 is of little value in the case of a fait accompli.

11 (v) The right to always use the Budget
12 and appropriations of the previous year regardless
13 of the decision of the Diet.

14 Turning to the overlapping sphere of the
15 Cabinet and the Privy Council, the Privy Council
16 shares with the Cabinet a vast part of the legis-
17 lative power. On the one hand it has, in con-
18 junction with the Cabinet the powers exercisable
19 when the Diet is not in session, including the
20 approval of Imperial Ordinances under Articles
21 VIII and LXX of the Constitution; and on the other
22 hand exercises the legislative powers, exercisable
23 irrespective of the sitting of the Diet, including
24 international treaties and agreements, declarations
25 of martial law, and Imperial Ordinances having penal

1 provisions. In addition, every project of law or
2 bill introduced into the Diet by the Cabinet is
3 previously submitted to the Privy Council for its
4 approval.

5 While the Council has no power to initiate
6 legislation, it has a wide veto and amending power.
7 On bills which have been introduced by a Diet member
8 and have passed the Diet, it can only recommend
9 approval or disapproval in toto. On the other hand,
10 with respect to projects of law submitted to it by
11 the Cabinet before introduction in the Diet, it
12 may not only veto but freely exercise its amending
13 power.

14 Since the members of the Cabinet are all
15 ex-officio members of the Privy Council, the realm
16 of disagreement between the two bodies, as a matter
17 of fact and a matter of practice in the period
18 covered by the indictment, has been small.

19 Turning now to the executive gaps and
20 conflicts:

21 Like the legislative branch of the govern-
22 ment, the executive department of the Japanese
23 government is not a single agency. Basically, all
24 executive power is vested in the Emperor. It is
25 exercised, in fact, by the Cabinet and its agencies,

1 the composite of the military and naval agencies
2 known as the "Supreme Command" and the Privy Council.
3 Conflicts of jurisdiction exist within and between
4 these bodies.

5 First, as to the area of conflict within
6 the Cabinet:

7 While the Cabinet exercises the chief
8 governmental functions of formulating general policy,
9 determining the modes of the exercise of the authority
10 vested in the Throne, formulating the legislative
11 program and by leading the Diet, its effectiveness as
12 the chief governing organ of Japan is severely limited
13 by its dual nature. This "duality" of the Cabinet is
14 due to two factors: (1) the peculiar position held
15 by the ministers of war and navy within the Cabinet;
16 and (2) the nature of the personnel holding the
17 offices of the ministries of war and navy.

18 The ministers of war and navy possess the
19 important right of iaku joso or the right of direct
20 access to the Throne. In this respect it should be
21 noted that all Cabinet Ministers have the right of
22 access to the Throne. However, the right of the war
23 and navy ministers to approach the Throne is greater
24 than that of other ministers and is coequal with that
25 of the Prime Minister. While the other ministers of

1 state are responsible in every way to the cabinet
2 for the carrying out of their duties and for advice
3 given to the Throne, the Cabinet does not have such
4 complete control over the war and navy ministers
5 since they have the right of access to the Throne on
6 matters which are kept secret from the other members
7 of the Cabinet except the Premier. This superior
8 right is recognized in Article VII of the Imperial
9 Ordinance on The Functions of the Cabinet which
10 provides:

11 "Such matters as concern military secrets
12 and military orders and are reported to the Emperor,
13 unless referred to the Cabinet by the Emperor, shall
14 be reported to the Prime Minister by the Minister of
15 War and the Minister of the Navy."

16 The importance of the right is further in-
17 tensified by the fact that the Premier is limited by
18 law in the choice of qualified personnel in the fill-
19 ing of these positions. By Imperial Ordinance 193 of
20 May 9, 1900, the war minister must be a general or
21 lieutenant general and the navy minister must be an
22 admiral or vice-admiral in active service. On June
23 13, 1913, Admiral Yamamoto succeeded in widening the
24 qualification to include those on the reserve lists,
25 but since the administration of Premier Hirota in

1 1936 the qualifications have been limited to those
2 in active service. Because of the requirement of
3 active service, the army and navy have control of
4 the appointment of the respective persons to the war
5 and navy ministries. This power is exercised for the
6 army by a triumvirate consisting of the outgoing
7 Secretary of War, the Chief of the General Staff and
8 the Director General of Military Education; and for
9 the navy by a similar group holding the correlative
10 offices in that branch of the service.

11 The results of this duality of organization
12 have been as follows:

13 First, by failing to appoint a war minister
14 or a navy minister, either the army or navy could pre-
15 vent the formation of a cabinet or control the naming
16 of the personnel thereof.

17 Second, by compelling the war or navy min-
18 isters, subject to the orders of the high command
19 because of their active service status, to resign,
20 either the army or the navy could bring about the
21 resignation of the Cabinet.

22 Third, through the use of the right of
23 direct access to the Throne, the war and navy minis-
24 ters have been able to obtain the establishment of
25 policy which is contrary to the opinions of the

1 Premier and the other members of his cabinet or which
2 is kept entirely secret from them.

3 This area of conflict between the military
4 members of the cabinet and the other members of that
5 body is but one phase of the divided and overlapping
6 authority between the cabinet and the high command.
7 According to the Constitution the Emperor has the
8 following powers with respect to the armed services:

9 Article XI. The Emperor has the supreme
10 command of the Army and Navy.

11 Article XII. The Emperor determines the
12 organization and peace standing of the Army.

13 Based on these two articles the Imperial
14 prerogative over military affairs has in practice
15 been divided into the prerogative over the supreme
16 command and the prerogative over the administration
17 of the armed forces.

18 MAJOR BLAKENEY: By leave of the Tribunal,
19 on behalf of the defendants we wish to object to the
20 continuance of this opening statement, if it is such.
21 Not only is it repetitious of what has gone before
22 but we submit to the Tribunal that counsel is, in
23 fact, testifying. He is placing interpretations upon
24 events and documents. He makes no statement that they
25 intend to prove such things and, in fact, I think we

1 can readily see it might be very difficult to prove
2 some of these interpretations.

3 We, therefore, wish to submit that even
4 without reference to the provisions of the Charter
5 and the rules for a concise opening statement that
6 such a statement as this is highly improper in its
7 attempt to detail all of the evidence.

8 THE PRESIDENT: The Tribunal desires you to
9 continue, Mr. Horwitz.

10 MR. HORWITZ: Based on these two articles
11 the Imperial prerogative over military affairs has
12 in practice been divided into the prerogative over
13 the supreme command and the prerogative over the
14 administration of the armed forces. The former covers
15 the power of using the armed forces for the protection
16 of the state from attack from both without and within,
17 and other powers directly relating to military oper-
18 ations. The latter includes the organization of
19 divisions and of fleets, and all matters relating to
20 military districts and sub-districts, to the storing
21 up and distribution of arms, to education, inspec-
22 tions, discipline, modes of salute, uniforms, guards,
23 fortifications, naval defenses, preparation for ex-
24 peditions and fixing the annual number of recruits.
25 This division has been constantly maintained since

1 the cabinet system was started in 1885. In the exer-
2 cise of the former power, that of the supreme command,
3 the Emperor does not exercise it through the cabinet
4 but through the minister of war, the minister of the
5 navy, the chiefs of the general staff and the chief
6 aide-de-camp to the Emperor, all of whom have direct
7 access to the Emperor and who are directly responsible
8 to him. The Emperor is thus assisted in the exercise
9 of the prerogative of the Supreme Command by organs
10 which are separate from, and independent of, those
11 which advise the Throne over general affairs of
12 state.

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1 In practice, the line of demarkation be-
2 tween matters of general affairs of state and supreme
3 command has not been clear. It will be shown time and
4 time again throughout the course of these proceedings
5 that, entrusted with the defense of the nation, the
6 supreme command has challenged the power of the cabinet
7 over many matters on the ground that they were matters
8 of national defense. They have thus claimed and exer-
9 cised the right to advise the Emperor and to formulate
10 policy on matters relating to the declaration of war,
11 foreign relations, treaty negotiation and ratification
12 and many internal matters because of their relation,
13 actual or supposed, to the subject of national defense.
14 In fact, in the field of foreign relations the Supreme
15 Command has authority to play an independent role. For
16 example, Article 10 of the Imperial Ordinance relating
17 to the organization of the Naval General Staff Office,
18 which is exhibit 79 in the case, specifically provides:

19 "There shall be instituted, at the Japanese
20 Embassies and Legations abroad, Combatant Officers as
21 Embassy and Legation Naval Attaches and Assistant Naval
22 Attaches, and the Chief shall control them."
23 There exists as a result of this separation of the
24 supreme command from the other organs of government,
25 a sphere of divided responsibility and overlapping
function with respect to the major governmental

1 powers in the Japanese Constitutional System.

2 In addition to the conflicts pointed out,
3 there are gaps in the constitutional executive set-
4 up. One is the administration of the Imperial House-
5 hold. Since, as pointed out before, the Diet is pre-
6 cluded from passing on questions relating to the
7 Imperial Household and since the Ministers of State,
8 even though they may be and are consulted with re-
9 spect to matters of the Household, have no responsi-
10 bility for such matters, and since no other consti-
11 tutional provision is applicable to the governance
12 of the Imperial Household, a gap exists which has been
13 filled by the creation of extra-constitutional offices
14 and bodies. Likewise a similar situation has existed
15 with respect to the organization of which is known as
16 the Supreme Command.

17 Turning now to the Extra-Constitutional
18 Organs and Offices which have been set up, first of
19 all of these there is the Chiefs of Staff. This
20 matter has been fully explored by Brigadier Nolan
21 and need not be extended here.

22 Turning now to the Boards.

23 In addition to the primary offices of the
24 Chief of Staff, there are several military boards
25 which play a part in the exercise of the supreme

1 command.

2 First there is the Board of Field Marshals
3 and Fleet Admirals or Gensuifu.

4 This Board was originally created in 1898,
5 and its membership is limited to field marshals and
6 fleet admirals. Theoretically this body is sup-
7 posed to be the highest advisory body to the
8 Throne on army and navy matters but it is in fact
9 purely an honorary body with little or no power.

10 Second, there is the Supreme War Council
11 or Gunji Sangiin.

12 This Council was created by Imperial Or-
13 dinance No. 294 of 1903. Its membership consists of
14 the members of the Board of Field Marshals and Fleet
15 Admirals, the Minister of War and Navy, the Chiefs
16 of the Army and Navy General Staffs and other gen-
17 erals and admirals nominated by the Emperor.

18 Its function is to advise on all military
19 and naval policy generally and to coordinate all
20 administrative and tactical organizations. It
21 plays no part with respect to tactics and strategy.

22 It is organized into two divisions - the
23 Army Councillor's Conference and the Navy Coun-
24 cillor's Conference.
25

1 Third, the Imperial General Headquarters
2 or Daihonei.

3 This organization exists only at the time
4 of war or at the time of an incident resembling war.
5 For present purposes it was set up on November 20,
6 1937, and existed throughout the remainder of the
7 period. It is headed by the Emperor, and its mem-
8 bers consisted of the two chiefs of staff, the vice
9 chiefs of staff, and the heads of all staff bureaus,
10 the ministers of war and navy, the vice ministers and
11 certain bureau chiefs from these ministries, the
12 inspector-generals of military training and the
13 Inspector-General of Army operation.

14 This organization was divided into two
15 sections - the army section and the navy section -
16 and met both separately in sections and jointly.

17 Its function is best described in the
18 Ordinance of Daihonei, which is exhibit 80 in the
19 case, (Imperial General Headquarters) as follows:

20 "....to take part in the highest momen-
21 tous affairs, to make plan of operations and consid-
22 ering last object, to arrange the cooperation and the
23 united action of Army and Navy."

24 Third, we have the Chief Aide-de-camp to
25 the Emperor.

1 While this officer, a full general, has
2 no connection with the Supreme Command, he has full
3 access to it. All military memorials and requests
4 for audiences with the Throne are submitted through
5 him and all Imperial orders for the army and navy
6 are transmitted by him.

7 The second group of offices which have
8 been set up to fill gaps or coordinate overlapping
9 functions are the Imperial Household Offices.

10 The offices set up for the administration
11 of the Imperial Court are divided into two categories:
12 the Outer Court and the Inner Court.

13 1. The Outer Court - The Minister of the
14 Imperial Household (Kunai Daijin).

15 This office was established by the same
16 ordinance under which the Cabinet was created and
17 this official has the power of administering the
18 household affairs and the properties of the Imperial
19 Household. For the purposes of this trial this
20 office is of no consequence.

21 Second: The Inner Court.

22 First there is the Grand Chamberlain
23 (Jijucho).

24 This official is in a sense the Emperor's
25 adjutant. He is a civil official with no visible

1 connection with the civil government or the supreme
2 command. Appointments for audiences with the Em-
3 peror are arranged through his office and he is in
4 charge of all ceremonial matters.

5 The second office of the Inner Court is
6 the Lord Keeper of the Privy Seal (Naidaijin).

7 Under Article II of the Regulations
8 for the Lord Keeper of the Privy Seal, exhibit
9 95 in this case, the duty of the Lord Keeper is
10 to assist and advise the Emperor in administering
11 the affairs of state, constantly attending upon
12 him. All bills and petitions go through his
13 office for Imperial sanction. He is the cus-
14 todian of the Imperial seals and the great state
15 seals which must be affixed to all documents for
16 purposes of promulgation.

17 His most important function in late years
18 has been that of recommending to the Emperor a suc-
19 cessor premier upon the resignation of a Cabinet.
20 In prior years, his sole function in this regard was
21 to transmit the decision of the Elder Statesmen or
22 Genro to the Emperor. In 1935, as Prince Saionji
23 grew older, upon resignation of the Hayashi Cabinet,
24 the Lord Keeper himself was asked to and did himself
25

1 make the recommendation after consultation with
2 Saionji. This precedent was followed until January,
3 1940, when the Lord Keeper first determined upon the
4 successor premier after consultation with the in-
5 dividual ex-premiers and thereafter obtained
6 Saionji's views. Upon the establishment of the
7 Third Konoye Cabinet, the Lord Keeper held a con-
8 ference with the ex-premiers and president of the
9 Privy Council, they acting as advisors to him, and
10 himself made the recommendation. This latter pro-
11 cedure was used at all times thereafter.

12 There exists one other body with re-
13 spect to the governance of the Imperial Household,
14 which is the Imperial Family Council.

15 The members of this group consist of the
16 male members of the Imperial Family who have reached
17 the age of majority, the Lord Keeper of the Privy
18 Seal, the President of the Privy Council, the Min-
19 ister of the Imperial Household, the Minister of
20 State for Justice and the President of the Court
21 of Cassation.

22 By Article IX of the Imperial House Law
23 this Council and the Privy Council, when the Im-
24 perial heir is suffering from an incurable disease
25

1 of mind and body, or when any other weighty cause
2 exists, may change the order of succession. It
3 also in the same way participates in the appoint-
4 ment of a regency and may change the order of
5 regency appoint or remove an Imperial Governor
6 for the education and bringing up of a minor Emperor,
7 if none has been appointed by the preceding Emperor.
8 The Council likewise acts on matters of disciplinary
9 punishment of members of the Imperial Family and
10 preservation of their property.

11 The next group of bodies which have been
12 created are the Extra-legal Bodies. The first of
13 these is the Genro.

14 The body of Elder Statesmen called the
15 Genro was an extra-constitutional and extra-legal
16 institution. This body was more or less informally
17 constituted from among the councillors and leaders
18 of the Meiji Restoration and had no status within
19 the constitution, laws or ordinances. However, there
20 gradually developed the custom that those statesmen
21 who played leading roles in the Restoration of 1868
22 and in the early period of the Constitutional his-
23 tory of Japan were to be consulted on matters of
24 paramount importance in domestic and foreign matters
25

1 including the naming of a new cabinet, war declarations,
2 conclusions of peace and negotiations of treaties and
3 international agreements of importance. For many
4 years one or another from among the Genro occupied the
5 important governmental positions of Prime Minister,
6 President of Privy Council or Lord Keeper of the
7 Privy Seal. Beginning informally, the group began
8 to be recognized as a governmental institution and
9 finally in December 1926, when Prince Saionji was
10 appointed a Genro, the institution was formally rec-
11 ognized by an Imperial Rescript making the appoint-
12 ment.

13 The group met and functioned on direct order
14 from the Emperor that they should meet and advise on
15 the solution of the question submitted. While they
16 advised on grave matters of state such as the decla-
17 ration of war, conclusion of peace and matters in-
18 volving international relations, their most important
19 function was in serving as the medium through which
20 a new cabinet was named, thus filling up one of the
21 major gaps in the Japanese Constitutional system
22 occasioned by the fact that as a matter of legal
23 principle the cabinet is responsible only to the
24 Emperor. Upon the death of Prince Saionji in 1940,
25 the Genro disappeared as an institution.

1 The second of these groups is the group
2 known as the Elder Statesmen or Jushin.

3 With the passing of the function of advising
4 the Emperor on the matter of the selection of a new
5 cabinet from the Genro to the Lord Keeper of the
6 Privy Seal, the Lord Keeper instituted the practice
7 of consulting individually with the ex-premiers and the
8 President of the Privy Council. This group of Elder
9 Statesmen came to be known as the Jushin. In July 1940,
10 this body was officially formalized by being convoked
11 and meeting as a group to advise the Lord Keeper on
12 the selection of a new premier. While the confer-
13 ence of ex-premiers has the primary function of ad-
14 vising on the selection of a premier, on occasion
15 it has been summoned to advise the Emperor on matters
16 of state of grave importance.

17 The last group of bodies, which has been
18 set up to meet these problems, are the bodies known
19 as the Liaison Bodies. The first of these is the
20 Liaison Conference or Renraku Kaigi.

21 With the intensification of the situation
22 following the outbreak of the China War in 1937, the
23 need for a device to coordinate the activities of
24 the ministers of state and the high command in their
25 overlapping spheres of authority became readily apparent.

1 Several devices were set up to meet this need. First
2 the "Four Minister" meeting of the premier, war, navy
3 and foreign ministers was established. Later the finance
4 minister was added to this group making a "Five Minister"
5 Conference. In these meetings the views of the Supreme
6 Command were transmitted through the war and navy
7 ministers. However the situation developed in such
8 a manner that the Chiefs of Staff came to the con-
9 clusion that this method of working through the war
10 and navy ministers was unsatisfactory and the liaison
11 conference plan was adopted to adjust the difference
12 between the civil government and the high command.

13 This group which met more or less regularly,
14 consisted of the premier, foreign minister, war minister,
15 navy minister, home minister, chiefs of staff, vice
16 chiefs of staff and the directors of the military
17 affairs and naval affairs bureaus. In addition at
18 times, the President of the Cabinet Planning Board
19 and the Chief Cabinet Secretary attended.

20 Inasmuch as the personnel of these meetings
21 was, with the exception of the Emperor, practically
22 identical with the personnel of the Conference before
23 the Throne hereafter discussed, and since liaison
24 conferences always preceded Conferences before the
25 Throne, the decisions reached in the liaison conference

1 were of the utmost importance in relation to the de-
2 cisions of the more formal conference.

3 The second body is the Saiko Shido Kaigi
4 or Conference for the Supreme Direction of the War.

5 This body came into existence during the
6 Koiso Cabinet during the war, and was in fact the
7 old liaison conference under a new name.

8 Third, the Dai honel Kaigi or the Imperial
9 Headquarters Conference.

10 When, during the course of the war, the
11 Liaison Conference and the Conference for the
12 Supreme Direction of the War failed to adequately
13 meet the problems involved, the Premier began attend-
14 ing meetings of Imperial Headquarters but without
15 participating in strategic or tactical matters.
16 These meetings were known as Imperial Headquarters
17 Conferences.

18 The last of the bodies is the Gozen Kaigi
19 or Conferences before the Throne.

20 Although no authority can be found in the
21 Constitution, laws or ordinances for the Gozen
22 Kaigi or Conference before the Throne, it has existed
23 as an institution in the Japanese Government for
24 hundreds of years. It has continued to function as the
25 organ for reconciling the conflicts arising from the

1 division of authority in various spheres. As a body
2 it meets only under the gravest of conditions to
3 determine matters of gravest policy.

4 The membership of the conference in addition
5 to the Emperor has varied both in size and in the
6 nature of the membership. During 1940 and 1941, when
7 five such conferences were held, the membership con-
8 sisted of the Premier, the President of the Privy
9 Council, the Navy Minister, the War Minister, the
10 Foreign Minister, the Finance Minister, the Presi-
11 dent of the Cabinet Planning Board, the Chief and
12 Vice-Chief of the Army General Staff, the Chief and
13 Vice-Chief of the Navy General Staff and the Direct-
14 ors of the Military Affairs Section of the Army and
15 the Naval Affairs Section. Occasionally other cab-
16 inet ministers attended.

17 Such conferences did not meet at regular
18 intervals but only at times of grave national im-
19 portance. Some meetings were publicized and others
20 have been kept secret. During the year preceding the
21 outbreak of war on December 7, 1941, the conference
22 met on petition for such meeting from the liaison
23 conference. The interested parties would agree on a
24 subject and plan which was presented to the liaison
25 conference, which would in turn request a Conference

1 before the Throne. Ordinarily, in practice, no
2 formal decision was made at the time of the confer-
3 ence, but the consensus of the conference is made
4 the formal decision of the Cabinet.

5 This discussion, together with the pre-
6 ceding one and the evidence which has been introduced
7 and will be again recalled by Brigadier Nolan, has
8 been presented for the purpose of explaining the
9 frame-work of the Japanese governmental system, to
10 serve as a guide for assaying the actions of the
11 defendants in the light of the evidence which will
12 be presented. The operation of these offices and
13 bodies will be repeatedly demonstrated throughout
14 the course of these proceedings.

15 THE PRESIDENT: The Tribunal will now recess
16 until three o'clock.

17 Whereupon, at 1445, a recess was
18 taken until 1500, after which the proceedings
19 were resumed as follows:)
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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Brigadier Nolan.

4 BRIGADIER NOLAN: May it please the Tribunal,
5 with the permission of the Tribunal, I now offer in
6 evidence against all the defendants, exhibits 68 to
7 99, inclusive, being the basic laws and ordinances,
8 which have already been marked as exhibits in the
9 case.

10 THE PRESIDENT: The evidence is admitted on
11 terms already stated.

12 (Whereupon, prosecution's exhibits
13 Nos. 68 to 99, inclusive, were received in
14 evidence.)

15 BRIGADIER NOLAN: As it will become apparent
16 to the Tribunal, the matters which we have been men-
17 tioning during the last two days are in the nature of
18 a recurrent theme which will run through all phases
19 of the case. Most of the matters mentioned may be
20 found in the basic laws and ordinances now in evidence.
21 Any other matters mentioned by counsel presenting this
22 phase will be proved in evidence in other phases of
23 the case as the necessity arises.

24 MR. HORWITZ: If the Tribunal please, at
25 this time, on behalf of the prosecution, we offer a

1 series of documents which have to do with establish-
2 ing the offices and positions held by each of the
3 defendants in the Government of Japan. Each of these
4 documents has been served, as required by the rules
5 of Court, more than twenty-four hours prior to their
6 presentation to the Court, upon counsel for the
7 defense.

8 I first offer prosecution exhibit No. 102,
9 being an Official List of the Imperial Japanese
10 Government Officeholders and the period of their
11 tenure for the period 1931 to 1946, covering the fol-
12 lowing offices: Cabinet Ministers --

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 102, for identification.)

16 THE PRESIDENT: The document is admitted.

17 (Whereupon, prosecution's exhibit
18 No. 102 was received in evidence.)

19 MR. HORWITZ: While the documents from 123
20 to 129 will be offered individually against the in-
21 dividual defendants, I wish to make a general state-
22 ment with respect to all of them so that the same
23 thing will apply to all of them.

24 I wish to make a correction: That is from
25 103 to 129.

1 (Whereupon, the documents above
2 referred to were marked prosecution's ex-
3 hibits Nos. 103 to 129, inclusive, for
4 identification.)

5 MR. HORWITZ: Each of these documents is
6 an official Cabinet Secretariat Personnel Record of
7 one of the defendants, and to each of them is
8 attached a certificate from the Chief of the Section
9 of Personnel Affairs of the Cabinet Secretariat
10 certifying that this is an official government doc-
11 ument, that he has custody of it, and that it is
12 part of the official archives and files of the
13 Cabinet Secretary.

14 I offer, first of all, prosecution exhibit
15 No. 103, being the Cabinet Secretariat Personnel
16 Record of ARAKI, Sadao.

17 THE PRESIDENT: The document is admitted
18 on the terms stated.

19 (Whereupon, prosecution's exhibit
20 No. 103 was received in evidence.)

21 MR. HORWITZ: There are certain items in
22 this document we wish at this time to call to the
23 particular attention of the Court.

24 (Reading) "On August 1, 1931, the accused
25 ARAKI was appointed Chief of the General Affairs

1 Department of the Inspectorate General of Military
2 Training and the President of Permanent Examination
3 Committee for Army Officer Students.

4 "September 10, 1931, appointed a member of
5 the Committee for the Textbook Investigation.

6 "On December 13 --

7 MR. McMANUS: Mr. President, Members of
8 the Tribunal, I should like to object at this time to
9 any testimony which appears to me as being offered by
10 the prosecutor now. The document is in evidence, and,
11 therefore, I think it speaks for itself; and this
12 time, I believe, is not the proper time to introduce
13 any evidence concerning the defendant ARAKI.

14 MR. HORWITZ: If the Tribunal please, I am
15 not giving evidence against the defendant ARAKI at this
16 time, but only reading a document which is already in
17 evidence against the defendant ARAKI: not only against
18 the defendant ARAKI but against all the defendants.

19 MR. WARREN: If the Tribunal please, may we
20 have a clarification of this particular document?
21 Counsel states he is introducing a document against
22 ARAKI. Then he makes the statement to the Court that
23 he intends to read from that document concerning all
24 the accused. We are not informed as to what he in-
25 tends to do, sir.

1 THE PRESIDENT: The Tribunal thinks that
2 Mr. Horwitz should be allowed to state the contents
3 of the document.

4 MR. HORWITZ: To clarify the point that
5 counsel raised, we are offering this document against
6 all defendants as a public record.

7 (Reading) "December 13, 1931, relieved
8 of all duty and appointed Minister of War.

9 "January 30, 1932, relieved as a member of
10 the Committee for the Investigation of Textbooks.

11 "October 20, 1933, promoted to General.

12 "January 23, 1934, relieved of main duty,
13 and appointed Supreme War Councillor.

14 "April 29, 1934, decorated with the Grand
15 Cordon of the Rising Sun for meritorious services
16 for the 1931-1934 Incident.

17 "December 26, 1935, created Baron for
18 meritorious service.

19 "March 6, 1936, placed on the waiting list.

20 "March 10, 1936, placed on the reserve list.

21 "October 15, 1937, appointed Cabinet Coun-
22 cillor.

23 "May 26, 1938, appointed Minister of Educa-
24 tion.

25 "May 27, 1938, relieved as Cabinet

1 Councillor by his own request.

2 "March 28, 1939, appointed President of
3 the General National Mobilization Committee.

4 "August 30, 1939, relieved of his main
5 duty at his own request.

6 "September 6, 1939, specially granted the
7 privileges of his former post.

8 "December 1, 1939, ordered as Cabinet
9 Councillor.

10 "December 23, 1939, appointed a member
11 of the Committee for Promotion of Military Art,
12 which committee was abolished by Imperial Ordinance
13 No. 840, issued 3 September 1941.

14 "August 3, 1940, relieved as Cabinet
15 Councillor at his own request.

16 "November 22, 1941, appointed as a member
17 of the National Physical Investigation Committee.

18 "December 15, 1944, appointed a member of
19 the Committee on Preparation to Establish the Museum
20 of the Greater East-Asia."

21 Our next offer: prosecution exhibit No.
22 104, being the Cabinet Secretariat Personnel Record
23 of Kenji DOHIHARA.

24 (Whereupon, the document above
25 referred to was marked prosecution's

1 exhibit No. 104, for identification.)

2 THE PRESIDENT: The document is admitted
3 on the same terms.

4 (Whereupon, prosecution's
5 exhibit No. 104 was received in evidence.)

6 CAPTAIN KLEIMAN: May it please the
7 Tribunal, I wish to now object against this document
8 being offered in evidence against the defendant
9 HIRANUMA, on the ground that it is irrelevant and
10 immaterial.

11 THE PRESIDENT: I cannot allow you to
12 continue indefinitely on those lines. These docu-
13 ments are being admitted subject to all just ex-
14 ceptions and objections that may be taken at the
15 proper time. The Court rules that this is not the
16 proper time.

17 CAPTAIN KLEIMAN: May it please the Tribunal--

18 THE PRESIDENT: I refuse to hear you further,
19 unless my colleagues disagree with me.

20 MR. JUSTICE MANSFIELD: If the Tribunal
21 please, the prosecution at this stage is actually
22 tendering these documents in evidence against all the
23 defendants. They are official government records of
24 the Japanese Government, and they are now being
25 tendered directly in evidence, and these documents

1 will not be tendered at a later stage.

2 I thought the Tribunal might possibly be
3 under some misunderstanding, or the prosecution may
4 not have stated that directly. We are now directly
5 tendering them as against all the accused as being
6 official government records.

7 MR. FURNESS: I would like to inquire from
8 the prosecution whether they allege that these docu-
9 ments were served on the defense -- defendant or his
10 counsel twenty-four hours ago.

11 My information is that they were served
12 on the Secretariat of the Tribunal and were not
13 served on any of the defense counsel. None of the
14 defense counsel have ever seen these documents, and
15 the rules provide that they shall be served on the
16 accused concerned or his counsel, or to the prosecu-
17 tion, as the case may be. It does not provide that
18 they shall be served on the Secretariat.

19 MR. HORWITZ: It is my understanding that
20 these documents were served late Monday afternoon or
21 early Tuesday morning at the administrative office
22 of defense counsel.

23 MR. SMITH: If your Honor please, I have
24 not received a copy of anything that has been offered
25 here today, and I have not yet received half the

1 documents which were received in evidence at the
2 last session.

3 MR. WARREN: If the Tribunal please, I
4 have ascertained that the documents in question were
5 presented to the defense section; but, because of
6 lack of personnel, distribution to the counsel has
7 been impossible. That is the reason, sir, that we
8 have not received them, and possibly the reason we
9 have not received these other documents. We are at
10 a loss. We will attempt to work out some method with
11 the prosecution or with the Secretariat, we hope,
12 whereby we may have these things because it does look
13 embarrassing to the Tribunal, and it is embarrassing
14 to us to come in and make these objections when
15 actually they have been served, not on the defend-
16 ants, but on an administrative officer who probably
17 does not realize the importance that they go out
18 immediately.

19 I thank you.

20 THE PRESIDENT: We will go ahead.

21 MR. WILLIAMS: Mr. President, may I say a
22 word?
23

24 THE PRESIDENT: Yes.

25 MR. WILLIAMS: These particular documents
were served on a person, whom we understood to

1 represent the defendants, last Tuesday. Other docu-
2 ments are in the process of being prepared to be
3 served on the defense counsel between now and next
4 Monday in view of the proceedings that are expected
5 to be held on next Monday.

6 "We are proceeding upon the assumption that
7 delivering them to an office of defense counsel is
8 sufficient. As a matter of fact, it would be prac-
9 tically impossible for us to find the various offices
10 of the various defense counsel and make separate
11 delivery.

12 We would like to have the Court instruct
13 us as to the method to be followed.

14 THE PRESIDENT: I am assured by Lord
15 Patrick that the practice at Nuernberg is the same
16 as that followed here.

17 MR. WILLIAMS: May we then be reassured
18 if we do follow the practice we have heretofore
19 followed of having all exhibits for service on the
20 defense delivered at one spot--

21 THE PRESIDENT: Well, that practice is
22 followed in Germany, and it should be good enough
23 for us unless the contrary is shown.

24 I have been using the expression "document
25 accepted" or "received" on the same terms. I mean

1 received for its probative value, saving all just
2 exceptions. I hope I need not have to repeat that
3 every time.

4 CAPTAIN KLEIMAN: May it please your Honor,
5 this being so late in the afternoon, may we have an
6 opportunity to inspect these documents?

7 I applied on June 3, in compliance with
8 Rule 2a of the Rules of Procedure of this Tribunal,
9 to be allowed copies of all documents referred to in
10 the Indictment so far as they were made available by
11 the chief prosecutor; and as to those that were not
12 made available, I requested an opportunity to inspect
13 such copies. I applied on June 3 to the Secretariat
14 in compliance with this rule.

15 THE PRESIDENT: You will have the opportu-
16 nity after 4:00 p.m.
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1 MR. HORWITZ: With respect to Exhibit 104,
2 I wish to call particular attention of the Court to
3 the following entry:

4 1928 Mar 17 Reported to his Majesty for the Sanction
5 of the Permission to accept an appoint-
6 ment under the Chinese Government in
7 accordance with the Imperial Ordinance
8 No. 367, Article No. 2.

9 Reported to His Majesty for sanction
10 to receive salary from the Chinese
11 Government during his service to that
12 Government.

13 1929 Mar 10 Permitted to accept the appointment
14 under the Chinese Government from 20th
15 March 1928 to 31st December 1929

16 1929 Mar 15 Cancelled the contract of the appoint-
17 ment under the Chinese Government

18 Mar 16 Appointed Commander of the 30th In-
19 fantry Regiment (War Ministry)

20 1930 Dec 22 Attached to the Army General Staff

21 1931 Aug 1 Attached to the Headquarters of the
22 Kwantung Army.

23 1932 Apr 11 Promoted to Major General, Infantry;
24 Appointed Commander of the 9th In-
25 fantry Brigade.

1	1932 May 16	Raised to the 5th Court Rank, Se-
2		nior Grade.
3	1933 Oct 16	Attached to the Headquarters of the
4		Kwantung Army (War Ministry)
5	1934 Feb 7	Decorated with 2nd Order of Merit
6		with the Sacred Treasure.
7	Apr 29	Decorated with 5th Order of the
8		Golden Kite and given a grant of
9		500 Yen.
10	Apr 29	Decorated with the Order of Double
11		Rays for meritorious service in
12		the Incident between 1931 and 1934.
13	1936 Mar 7	Promoted to Lieutenant General;
14		Attached to the Headquarters of
15		the 12th Division (not mentioned
16		in the Official Gazette)
17	Mar 23	Attached to Headquarters of the 1st
18		Division (not mentioned in the Of-
19		ficial Gazette)
20	Apr 15	Raised to 4th Court Rank, Junior
21		Grade
22	May 7	Ordered as Deputy Conscription Of-
23		ficer under the 1st Division juris-
24		diction.
25		

1	1937 Mar 1	Relieved of duty with the Head-
2		quarters of the 1st Division;
3		Appointed Commander of the 14th Di-
4		vision; Relieved of duty as Deputy
5		Conscription Officer under the 1st
6		Division jurisdiction; Relieved as
7		Commander of the 1st Replacement
8		Division (Not mentioned in the Offi-
9		cial Gazette)
10	Nov 9	Decorated with the 1st Order of
11		Merit of the Sacred Treasure
12	1938 May 2	Raised to 4th Court Rank, Senior
13		Grade.
14	Jun 18	Attached to the General Staff Head-
15		quarters
16	1939 May 19	Appointed Commander of the 5th Army.
17	May 19	Relieved of duty with the General
18		Staff Headquarters
19	1940 Apr 18	Decorated with the Grand Cordon of
20		the Rising Sun
21	Sep 28	Appointed Supreme War Councilor
22	1941 Apr 28	Promoted to General
23	1941 May 15	Raised to 3rd Court Rank, Junior
24		Grade
25		

1	Jun 9	Appointed Chief of the Air Inspec-
2		torate General and at the same time
3		a Supreme War Councilor
4	1943 May 1	Appointed Commander of the Eastern
5		District Army; also duty as a Su-
6		preme War Councilor (Not mentioned
7		in Official Gazette)
8	Sep 8	Appointed Chief of the Extraordi-
9		nary Festival Committee of Yasukuni
10		Shrine held on Oct 1943
11	1940 Apr 29	Decorated with the 2nd Class of the
12		Golden Kite for meritorious service
13		in the Chinese Incident
14	1944 Mar 22	Appointed Commander of the 7th Area
15		Army (not mentioned in the Official
16		Gazette)
17	Jun 15	Raised to 3rd Court Rank, Senior
18		Grade (not mentioned in the Offi-
19		cial Gazette)
20	1945 Apr 7	Appointed Chief of the Inspector-
21		ate General of Military Training
22		and also the Supreme War Councilor
23		(Not mentioned in the Official Ga-
24		zette)
25		

1 Aug 25 Appointed Commander of the 12th
2 Area Army (Not mentioned in the
3 Official Gazette); also Commander
4 of the Eastern District Army (Not
5 mentioned in the Official Gazette)

6 Aug 27 Appointed Supreme War Councilor
7 (Not mentioned in the Official Ga-
8 zette)

9 1945 Sep 14 Appointed Commander of the 1st Army
10 General Headquarters; Also Commander
11 of the 12th Area Army and the Com-
12 mander of the Eastern District Army
13 and Supreme War Councilor (Not men-
14 tioned in the Official Gazette)

15 Sep 23 Appointed Supreme War Councilor

16 I next offer in evidence prosecutors ex-
17 hibit 105, being the Cabinet Secretariat Personnel
18 Record of HASHIMOTO, Kingoro.

19 (Whereupon, prosecutor's exhibit
20 No. 105 was received in evidence)

21 The following entry I wish to call to
22 the particular attention of the Court:

23 Jan. 30 1930 Attached to the General Staff Of-
24 fice Department.

25 July 3 1930 Appointed a member of the General

1		Staff Office.
2	1929 Jun 29	Decorated with the 4th Class Order
3		of the Sacred Treasure
4	1930 Jan 30	Attached to General Staff Office.
5	1930 Jul 3	Appointed Department Member of the
6		General Staff Office
7	1930 Nov 27	Given additional duty of Military
8		Science Instructor at the Army War
9		College
10	1931 Dec 12	Attached to the 10th Field Artil-
11		lery Regiment
12	1933 Aug 1	Attached to the 2nd Heavy Field
13		Artillery Regiment
14	1934 Aug 1	Appointed Colonel of Artillery and
15		Commander of the Second Heavy Field
16		Artillery Regiment
17	1934 Apr 29	Decorated with the Middle Cordon
18		of the Rising Sun in recognition
19		of services during the disturb-
20		ances from the year 1931 to 1934.
21	1936 Aug 1	Placed on the waiting list.
22	1936 Aug 29	Placed on the reserve list.
23	1939 Mar 9	Relieved as Commander of the 13th
24		Heavy Field Artillery Regiment;
25		Attached to Headquarters of the 12th Depot Division

1 1940 Apr 29 Decorated with the 4th Class Order
2 of the Golden Kite in recognition
3 of services in the China Disturb-
4 ances

5 I next offer in evidence prosecution's
6 exhibit No. 106, being the Cabinet Secretariat
7 Personnel Record of HATA, Shunroku.

8 THE PRESIDENT: The document is admit-
9 ted on the same terms.

10 (Whereupon, prosecutor's exhibit
11 No. 106 was received in evidence.)

12 MR. HORWITZ: I call the particular at-
13 tention of the Court to the following items in
14 this document:

15 1931 Aug .1 Appointed Lieutenant General and
16 appointed as an inspector of Ar-
17 tillery. Released from his former
18 post and appointed Commander of the
19 14th Division.

20 1934 Apr 29 Decorated with the first order
21 of merit with the Grand Cordon of
22 the Rising Sun in recognition of
23 meritorious services rendered in
24 the Incident of 1931-1934.

25 1935 Dec 2 Appointed Chief of Army Force Head-

1		quarters
2	1936 Jan 16	Appointed as a member of the Na-
3		tional Advisory Committee for Aero-
4		navitics
5	1936 Aug 1	Released from his regular post and
6		appointed Commander of the Formosan
7		Army
8	1936 Oct 14	Released from the post of a member
9		of National Advisory Committee for
10		Aeronautics
11	1937 Aug 2	Released from the above post and
12		appointed Military Councilor
13	1937 Aug 26	Relieved of his present post and
14		appointed Inspector-General of Mi-
15		litary Education and concurrently
16		appointed Military Councilor (Ca-
17		binet)
18	1937 Nov 1	Appointed Full General.
19	1937 Dec 13	Appointed Councilor (Gitei-Kan)
20	1938 Feb 14	Released from the regular and the
21		additional posts
22	1938 Feb 14	Appointed Commander of the Expedi-
23		tionary Force to Central China
24	1938 Dec 15	Released from the above post and
25		appointed Military Councilor.

1	1939 May 25	Released from the above post
2	1939 May 25	Appointed Chief Aide-de-Camp to
3		His Majesty.
4	1939 Aug 30	Appointed War Minister and con-
5		currently President of the Manchu-
6		rian Affairs Board
7	1940 Apr 29	Decorated with the 1st Class Order
8		of the Golden Kite (in recognition
9		of his meritorious services render-
10		ed in the China Affair)
11	1940 Jul 22	Released from the regular and ad-
12		ditional posts by request and ap-
13		pointed Military Councilor.
14	1941 Mar 1	Appointed Commander in Chief of
15		the Expeditionary Force to China.
16	1942 Jun 2	Appointed member of the Board of
17		Field Marshals and Admirals and
18		awarded specially the title of
19		Field Marshal
20	1944 Nov 22	Appointed Inspector-General of
21		Military Education
22	1945 Apr 7	Appointed Commander in Chief of
23		the 2nd Army Corps.
24	1945 Nov 30	The Institution of Field Marshals
25		was also abrogated by the abolition

1 of the charter of the Board of
2 Field Marshals by the Imperial
3 Ordinance No. 669

4 We wish to call the Court's attention
5 to Exhibit 102, already in evidence, which shows
6 at page 14 thereof that at the time he became War
7 Minister on August 30, 1939, the defendant HATA,
8 Shunroku, also became Vice-President of the China
9 Affairs Board.

10 I next offer in evidence the prosecutor's
11 exhibit designated No. 107, being the Cabinet Se-
12 cretariat Personnel Record of HIRANUMA, Kiichiro.

13 THE PRESIDENT: The document will be ad-
14 mitted on the usual terms.

15 (Whereupon, prosecutor's exhibit
16 No. 107 was received in evidence.)

17 MR. HORWITZ: We call the particular at-
18 tention of the Court to the following items in this
19 document:

20 1926 Apr 12 Appointed Vice-President of the
21 Privy Council.

22 1926 Oct 28 Created a Baron for distinguished
23 services.

24 1935 Oct 26 Appointed to the government com-
25 mittee of the permanent Arbitration

1		Committee between Japan and Holland.
2	1936 Mar 13	Appointed the Head of the Privy
3		Council.
4	1936 Feb 22	Appointed President of the Kings
5		and Royal Family Investigation Com-
6		mittee.
7	1936 Apr 1	Released by his request as a member
8		of the government committee on the
9		Permanent Arbitration Committee
10		between Japan and Holland.
11	1936 Apr 6	Appointed as a Councilor (Gijokan)
12	1939 Jan 5	Appointed Premier, and from docu-
13		ment
14	1939 Aug 30	Released from his principal post.
15	1939 Sept 6	Accorded the treatment due his
16		latest position as a special favor.
17	1940 Dec 6	Appointed as Minister without Port-
18		folio.
19	1940 Dec 21	Appointed as a Home Minister.
20	1941 May 7	Ordered to serve on the Civil Ser-
21		vice Committee.
22	1941 Jul 18	Appointed as the Minister without
23		Portfolio.
24	1941 Oct 18	Released from the principal post
25		at his own request, and especially

1 accorded the treatment of a former
2 Premier.

3 1942 Aug 28 Ordered to be dispatched to China
4 as the Special Envoy of good will.

5 1942 Oct 14 Released from his post on comple-
6 tion of the duty.

7 1945 Apr 9 Appointed Head of the Privy Council.

8 1945 Jun 8 Appointed as a Councilor (Gijokan).

9 1945 Dec 15 Released from his principal post
10 at his request.

11 I next offer in evidence for the prosecu-
12 tion exhibit No. 108, being the Cabinet Secretariat
13 Personnel Record of HIROTA, Koki.

14 THE PRESIDENT: Admitted on the same terms.

15 (Whereupon, prosecution exhibit
16 No. 108 was received in evidence).

17 MR. HORWITZ: The following items are
18 called to the attention of the Court:

19 1926 Nov 22 Appointed as an Envoy Extraordinary
20 and Minister Plenipotentiary, and
21 ordered to be stationed in the
22 Netherlands.

23 1929 Aug 7 Appointed to the Imperial Japanese
24 Delegate to the Conference held
25 at the Hague, Netherlands, concern-

1		ing the Reparation Question
2		of Germany.
3	1929 Aug 23	Appointed to the retinue of the Im-
4		perial Japanese Delegate to the
5		10th Assembly of the League of
6		Nations held at Gevena, Switzerland.
7	1930 Oct 15	Appointed as an Envoy Extraordinary
8		and Ambassador Plenipotentiary, pro-
9		moted to the first grade of high
10		official and ordered to be station-
11		ed in U.S.S.R.
12	1932 Nov 19	Relieved of being stationed in
13		U.S.S.R.
14	1933 Sep 14	Appointed to Minister of the For-
15		ign Ministry.
16	1934 Apr 29	Conferred the Grand Cordón of the
17		Imperial Order of the Rising Sun
18		for meritorious services during
19		Showa 6-7 Incident.
20	1935 Sep 21	Got permission from the Imperial
21		Household Dept. of the use of the
22		commemoration medal sent by the
23		Manchukuo Emperor for his visit
24		to Japan.
25	1936 Mar 9	Appointed to Prime Minister and

1		concurrently to Minister of Foreign
2		Ministry.
3	1936 Apr 2	Relieved of the concurrent post
4	1937 Feb 2	Relieved of the Prime Minister by
5		request
6	1937 Apr 29	Accorded the honorable treatment
7		of a Minister of State
8	1937 May 31	Appointed to a member of the House
9		of Peers according to No. 4, Article
10		I of the Regulation for the House
11		of Peers.
12	1937 Jun 4	Appointed Minister of the Foreign
13		Ministry
14	1937 Jun 10	Appointed to President of the Plan-
15		ning Board.
16	1937 Oct 25	The President of the Planning Board
17		was abrogated by the Imperial Ord-
18		nance No. 605 of the Showa 12th year.
19	1938 Apr 25	Got permission from the Imperial
20		Household Dept. of the use of a de-
21		coration of the first order of the
22		Ryuko Daijisho sent by the Manchu-
23		kuo Emperor
24	1938 May 29	Relieved of the post of Minister
25		of Foreign Ministry.

1	1938 Jun 8	Accorded the honorable treatment
2		of a Ministry of State
3	1938 Nov 2	Conferred a silver cup for meri-
4		torious service re Japano-German
5		Anti-Comintern Pact.
6	1940 Mar 13	Appointed to Councilor of the
7		Cabinet.
8	1940 Aug	Relieved of Councilor of the
9		Cabinet
10	1942 Jun 20	Sent to Thailand for returning cour-
11		tesies of commemoration re the Japano-
12		Thailand Alliance (Special Envoy for
13		returning courtesies of commemora-
14		tion re this Alliance)
15	1945 Dec 13	Relieved of the member of the House
16		of Peers by request.
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1 From documents -- exhibit 102 to pages 35
2 and 36, I call the attention of the Court to the
3 fact that this accused was also a member of the Supreme
4 War Council when Prime Minister and Foreign Minister.

5 We now offer in evidence for the prose-
6 cution exhibit No. 109, being the Cabinet Secretariat
7 and Personnel Record of HOSHINO, Naoki.

8 THE PRESIDENT: Admitted on the same terms.

9 (Whereupon prosecution's exhibit No.
10 109 was received in evidence.)

11 MR. HORWITZ: We call the particular attention
12 of the Court to the following items in this document:

13 1932 Jul 17 Appointed as a commissioner in the
14 Finance Ministry of Manchukuo;
15 Promoted to the 2nd class in Manchukuo
16 and appointed as Chief of General
17 Affairs

18 1934 Jul 1 Appointed as Chief of General Affairs
19 in the Finance Ministry of Manchukuo
20 Promoted to the 1st class in Manchukuo

21 1936 Jun 9 Appointed as Vice Chief of the Finance
22 Ministry of Manchukuo

23 1936 Dec 16 Appointed as Chief of the Bureau of
24 General Affairs in the National Affairs
25 Office of Manchukuo

1	1937 Jul 1	Appointed as Chief of General Affairs
2		in Manchoukuo
3	1940 Apr 29	Decorated with the 2nd Order of Merit
4		with the order of the Double Rays of
5		the Rising Sun for meritorious service
6		in China Affair.
7	1940 Jul 21	Relieved of duty.
8	1940 Aug 5	Specially granted the privileges of
9		his former post
10	1940 Jul 22	Appointed as President of Planning
11		Board and appointed as Minister of
12		State without Portfolio by Cabinet
13		Regulations Article 10.
14	Oct 1	Appointed as Acting Director of the
15		Overall War Strength Experimental
16		Station.
17	1940 Oct 16	Awarded the 1st Order of Merit with
18		the order of KEIUN-SHO which was given
19		by the Manchurian Emperor and allowed
20		to wear it; Awarded the 1st Order of
21		Merit with the order of KEIKOKU-SHO
22		which was given by the Manchurian
23		Emperor and allowed to wear it
24	Dec 6	Appointed as a Minister of State and
25		additionally as the President of the

1		Planning Board
2	Dec 12	Decorated with the 2nd Order of Merit
3		with the Order of the Sacred Treasure
4	1941 Jan 11	Relieved as Acting Director of the
5		Overall War Strength Experimental
6		Station
7	Apr 4	Relieved of the main duties and the
8		additional post at his request
9	1941 Apr 4	Appointed as a member of the House
10		of Peers according to the rule of
11		the House of Peers
12	May 2	Appointed as a Councillor of the
13		Overall War Strength Experimental
14		Station
15	Jul 12	Appointed as a member of the National
16		Mobilization Investigation Committee
17	Oct 18	Appointed as Chief Secretary of the
18		Cabinet; and specially granted the
19		treatment accorded officials of the
20		Shinnin Rank; and appointed as a mem-
21		ber of the Communication Regulations
22		Commission.
23	Nov 1	Appointed as Councillor of the Planning
24		Board
25	1941 Nov 5	Released as member of the Investigation

1		
2		Committee on National Mobilization;
3		and appointed as the member of the
4		Investigation Committee on National
5		Mobilization, being a new committee.
6	1941 Nov 15	Appointed as a Member of the govern-
7		ment committee at the 77th Session of
8		the Imperial Diet.
9	Nov 24	Relieved as Councillor of the Overall
10		War Strength Experimental Station.
11	1941 Dec 15	Appointed as a member of the govern-
12		ment committee at the 78th Session of
13		the Imperial Diet.
14	Dec 25	Appointed as a member of the govern-
15		ment committee at the 79th Session of
16		the Imperial Diet.
17	1942 Feb 21	Appointed as a Secretary of the In-
18		vestigation Committee for the Estab-
19		lishment of Greater East Asia.
20	Apr 21	Appointed as a Councillor of the Board
21		of Technology.
22	May 26	Appointed as a member of the Govern-
23		ment Committee at the 80th Session of
24		the Imperial Diet.
25	Nov 1	Appointed as a member of a Liaison

1		Committee of the Greater East Asia
2		Ministry.
3	Dec 24	Appointed as a member of the Govern-
4		ment Committee at the 81st Session of
5		the Imperial Diet.
6	1943 June 15	Appointed as a member of the govern-
7		ment committee at the 82nd Session of
8		the Imperial Diet.
9	Oct 25	Appointed as a member of the Govern-
10		ment Committee at the 83rd Session of
11		the Imperial Diet.
12	Dec 24	Appointed as a member of the govern-
13		ment committee at the 84th Session of
14		the Imperial Diet.
15	1944 Jun 30	Appointed as a Councillor of the Mun-
16		itions Ministry.
17	Jul 22	Relieved of the main duty at his re-
18		quest.
19	Dec 29	Appointed as an adviser to the Finance
20		Dept.
21	1945 Mar 8	Appointed as Chief of the Committee
22		for Establishment of the Central
23		Association of Life Insurance.
24	May 7	Appointed as a member of the Special
25		Planning Committee for Capital Absorption.

1 We now offer in evidence for the prosecution
2 exhibit No. 110, being the Cabinet Secretariat Person-
3 nel Record of ITAGAKI, Seishiro.

4 THE PRESIDENT: Admitted on the same terms.

5 (Whereupon, prosecution's exhibit No. 110
6 was received in evidence).

7 MR. HORWITZ: We call attention to the fol-
8 lowing items:

9	1929 May 14	Appointed Staff Officer of Kwantung
10		Army.
11	1932 Aug 8	Appointed Major General and attached to
12		the Kwantung Army Headquarters
13	1934 Aug 1	Attached to the Kwantung Army Head-
14		quarters
15	1934 Dec 10	Concurrently appointed Military Attache
16		of the Japanese Embassy in Manchukuo
17	Dec 10	Relieved of post, attached to the
18		Kwantung Army Headquarters; Appointed
19		Vice Chief of Staff of the Kwantung
20		Army.
21	Apr 29	Decorated with the 3rd Class Order of
22		Golden Kite with an annuity of ¥700;
23		Decorated with the Order of the Rising
24		Sun with Double Rays in recognition of
25		services of 1931-1934 Incidents

1	1936 Mar 23	Relieved of additional post as Military
2		Attache of the Imperial Embassy in
3		Manchukuo; and
4		Relieved of post as Vice Chief of Staff
5		of the Kwantung Army;
6		Appointed as the Chief of Staff of the
7		Kwantung Army
8	Mar 28	Appointed Japanese member of the Japan-
9		Manchukuo Economic Joint Committee
10	Apr 28	Appointed Lt. Gen.
11	1937 Mar 1	Assigned as Commander of the 5th Division
12	Mar 6	Relieved of post as Japanese member of
13		Japan-Manchukuo Economic Joint Committee
14	May 25	Attached to Army General Staff Office
15	Jul 7	Decorated with the Grand Cordon of the
16		Rising Sun for services in the 1931-34
17		Incidents
18	1938 Jun 3	Relieved of post, attached to the Army
19		General Staff Office and appointed War
20		Minister and concurrently President of
21		Manchurian Affairs Bureau
22	1939 Aug 30	Relieved of present post and additional
23		posts at his own request
24	1940 Apr 29	Decorated with the 2nd Class Order of
25		the Golden Kite in recognition of the

services in China War

1941 Jul 7 Appointed General and appointed Commander of the Korean Army

1945 Feb 1 Appointed Commander of the 17th Military District Army and concurrently Commander of the Korean Military Area Army

1945 Apr 7 Appointed Commander of the 7th Military District Army

THE PRESIDENT: We will adjourn now until thirty minutes after nine on Monday.

(Whereupon, at 1600, an adjournment was taken until 0930, Monday, June 17, 1946.)